REMARKS

Claims 1-7, 9-12 and 23-28 are pending in the application.

Claims 1-7, 9-21 and 23-28 have been rejected.

Claims 9, 11, 14, 23, 25, and 28 have been amended herein.

Claims 8 and 22 were previously cancelled.

Claims 1-7, 9-12 and 23-28 remain pending in this application.

Reconsideration of the claims is respectfully requested.

I.   CLAIM OBJECTIONS

The Examiner objected to Claims 9-14 and 23-28 as dependent on cancelled claims. In response, the Applicants have amended Claims 9, 11 and 14 to depend from Claim 1, and Claims 23, 25 and 28 to depend from Claim 15. The Applicants respectfully request that the Examiner withdraw the objection.

II.   CLAIM REJECTIONS – 35 U.S.C. §103

Claims 1-3, 6-7, 9-10, 13-17, 20-21, 23-24, 27 and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,094,715 to *Wilkinson, et al.* (hereinafter "Wilkinson") in view of U.S. Patent No. 5,881,284 to *Kubo* (hereinafter "Kubo"). Claims 11, 12, 25 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wilkinson reference in view Kubo reference, and further in view of "multi-thread VLIW processor architecture for HDTV decoding" by

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Hansoo Kim (hereinafter "Kim"). The Applicant respectfully traverses the rejection. The Applicant respectfully traverses the rejections.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a prima facie case of obviousness. MPEP §2142, p. 2100-133 (8th ed. rev. 4, October 2005). Absent such a prima facie case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

First, in rejecting Claim 1, the Examiner acknowledged that Wilkinson fails to disclose such dynamic allocation by dynamic bundling based on control flow equivalence. However, the Examiner asserted that Kubo discloses dynamically bundling jobs into a task. The Applicant respectfully submits that the Examiner appears to have mischaracterized the teaching of Kubo.

Kubo describes a device and method for scheduling a job so as to enhance a load balance between respective clusters in a clustered computer system, where a cluster is a plurality of processor groups, each group sharing a main memory. *See Kubo, col. 1, lines 6-15.* Jobs are assigned to a

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cluster when a previous job completes or when a utilization measurement of the cluster completes. *See Kubo, col. 2, lines 1-8*. A job selector selects a job that is 'suitable' for a cluster from a job queue and assigns the job to the cluster. *E.g., see Kubo, col. 3, lines 54-57*. Kubo contains <u>no</u> <u>disclosure</u> of what criteria are used to determine whether a job is 'suitable' for a cluster. Thus, Kubo describes dynamic allocation of jobs to clusters for the purpose of load balancing without teaching a criterion for the allocation.

Second, the purported obvious combination of the teachings of Wilkinson and Kubo that the Examiner attributes to a person of ordinary skill in the art is contrary to the bare language of Claim 1. The Examiner argues that it would have been obvious to such a person "to incorporate the teaching of Kubo into method of Wilkinson bundle the jobs into task with different control flow." *Office Action dated January 16, 2008, Section 7*. The language of Claim 1 recites bundling jobs into a task based on a control flow equivalence of the jobs, <u>not</u> bundling jobs into a task with a different control flow.

Third, the purported motivation to combine the teaching of Wilkinson and Kubo comes from the teaching of the Specification of the present application, rather than from the cited references or the . Wilkinson does not teach bundling. Kubo teaches job assignment to processor clusters in order to achieve load balancing between clusters, based upon an unspecified criterion of 'suitability.' The Examiner's statement that "[t]he modification would have been obvious because one of skill in the art would have the job bundled with same control flow of data together to be able to execute the jobs without switching different control mode and save system resources and execution time" is a mere

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conclusory statement. The teaching of a benefit from bundling jobs into a task for a SIMD unit based upon control flow equivalence of the jobs comes only from the present application.

Accordingly, the Applicant respectfully requests that the Examiner withdraw the § 103 rejection with respect to Claims 1-3, 6-7, 9-12, 13-17, 20-21, 23-27 and 28.

Claims 4, 5, 18 and 19 were rejected under 35 U.S.C.§103(a) as being unpatentable over Wilkinson reference in view of U.S. Patent No. 6,470,441 to *Pechanek, et al.* (hereinafter "Pechanek"). The Applicant respectfully traverses the rejection.

The Examiner acknowledges in the rejection of Claim 1 that Wilkinson fails to describe dynamically bundling jobs into a task, as recited in Claim 1. The Examiner does not assert that Pechanek describes such a limitation. Claims 4, 5, 18 and 19 depend from base claims reciting such a limitation. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness regarding Claims 4, 5, 18 and 19.

Accordingly, the Applicant respectfully requests that the Examiner withdraw the § 103 rejection with respect to Claims 4, 5, 18 and 19.

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CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@munckbutrus.com.*

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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Date: _March 17, 2008_

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